

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY)	
AVERAGE WHOLESAL PRICE)	MDL No. 1456
LITIGATION)	
)	CIVIL ACTION: 01-CV-12257-PBS
)	
THIS DOCUMENT RELATES TO)	Judge Patti B. Saris
)	
BRISTOL-MYERS SQUIBB TRIAL)	Chief Magistrate Judge Marianne B. Bowler
)	
)	
)	
)	

**DECLARATION OF RAYMOND S. HARTMAN
IN SUPPORT OF BRISTOL-MYERS SQUIBB SETTLEMENT ALLOCATION**

1. Plaintiffs' counsel have requested that I summarize certain calculations I have made in support of the settlement with Bristol-Myers Squibb (BMS) and the allocation of that settlement. The calculations I have been asked to undertake are attached as Tables 1 through 5.
2. The methodology I use to calculate damages in these tables is identical to that used in my original declarations and court testimony.¹ I have used the same assumptions and the same data produced by BMS, as well as certain publicly available information.
3. Table 1 summarizes all damages across all Class members for the BMS drugs for which the Court found liability.² Scenario 1 reflects damages to Class members in all 50 states and the District of Columbia. Scenario 2 reflects damages to Class members only in the states for which I have been instructed by counsel to include and which are listed in

¹ See, for example: Declaration of Raymond S. Hartman in Support of Plaintiffs' Claims of Liability and Calculation of Damages, December 15, 2005; Direct Testimony of Raymond S. Hartman, November 1, 2006; and Declaration of Raymond S. Hartman, Revised Damages for Track I Defendants: Classes 2 and 3, August 1, 2007.

² Findings of Fact and Conclusions of Law, *In re Pharmaceutical Industry Average Wholesale Price Litigation*, MDL No. 1456, Civil Action No. 01-12257-PBS, filed June 21, 2007, p. 178.

Table 4.³ All of the damage calculations presented in these tables assume a 30% threshold for damages and liability.

4. Table 2 shows the national damages (*i.e.*, Scenario 1) broken out by Class 1, 2 and 3,⁴ by drug and by year. Table 3 shows the Class state damages (*i.e.*, Scenario 2) broken out by Class 1, 2 and 3, by drug and by year.

5. The totals for Class 1 in Table 1 reflect damages to consumers who pay the Medicare copay and do not have supplemental insurance as well as consumers who do have supplemental MediGap insurance, but who are required to pay a percentage coinsurance. These calculations are based on those made in preparation for the Class 1 trial, which never occurred due to the settlement. Further refinements were made, such as the inclusion of damages to consumers who have supplemental insurance but who are required to pay a percentage coinsurance.⁵

6. Class 2 and 3 damages in Table 1 are based on the calculations I made for the MDL trial and were subsequently revised to reflect the Court's decision on June 21, 2007. Class 2 damages relate to Medicare copayment reimbursements made by private third-party payers. Class 3 damages have been separated into damages relating to private third-party payers and consumers who are covered by private third-party payers and who are required to make percentage coinsurance payments.⁶

7. I was also asked by counsel to calculate average overcharge percentages by drug and by year for Class 1. These calculations are presented in Table 5. Part A of this table shows the estimated payments made by Class 1 consumers for those drugs and years where the Court found liability.⁷ This calculation is based on the same data and methodology as in my prior reports and testimony. Part B of this table shows the total

³ Note that Table 4 also indicates the statutes of limitation, as provided to me by Plaintiffs' counsel, for each state that is incorporated in Scenario 2. I identify the states in Table 4 as the "Class states." Table 4 shows the number of years prior to 2002 that are included in damages. The years 2002 and 2003 are included for all Class states.

⁴ Damages are allocated to the various Classes using the following data sources: National Ambulatory Medical Care Survey (NAMCS) data were used to determine the percentage of sales that were reimbursed by Medicare or non-Medicare payers (excluding other government payers). The percentage of Medicare copayments paid by consumers or private third-party payers was determined using F.J. Eppig and G.S. Chulis, "Trends in Medicare Supplementary Insurance: 1992-96," *Health Care Financing Review*, 19(1), 1997, Table 1. The percentage of third-party plans paying for the Medicare copayment that require coinsurance payments is determined using Eppig and Chulis as well as McArdle et al., "Large Firms' Retiree Health Benefits Before Medicare Reform: 2003 Survey Results," *Health Affairs*, Jan 14, 2004. Based on the NAMCS data, uninsured cash payments that might be in Class 3 are *de minimis* and are assumed to be zero. However, there is a small percentage of Class 3 damages (2.5%) relating to consumer coinsurance payments under private plans. This percentage was determined using Kaiser Family Foundation, "Employer Health Benefits 2004 Annual Survey," Exhibits 7.8 and 7.9.

⁵ See footnote 4.

⁶ See footnote 4. Though my original calculations presented to the Court did not break out Class 3 consumers, I was asked to do so by counsel for settlement purposes.

⁷ The "n/a" in Table 5 refers to periods where data were not provided by BMS. In other words, BMS only provided data for the period 1993 through 2002. Extrapolation methods were used to determine damages in 2003.

damages for all Class 1 consumers by year and by drug. Finally, Part C of this table shows the average overcharge ratio, which is simply Part B divided by Part A.⁸ At the request of counsel, I calculated grand totals from 1999 to 2002 and from 1991 to 2002.

/s/ Raymond S. Hartman

Raymond S. Hartman

April 5, 2011

⁸ I did not calculate overcharge ratios in 2003 because BMS did not provide sales data for that year.

Table 1: BMS Nominal Damages Summary by Scenario

Class	Scenario 1 (Entire US)		Scenario 2 (Class States)	
	Total Damages	% of Total	Total Damages	% of Total
Class 1	\$4,501,102	14.6%	\$2,367,849	22.6%
Class 2	\$16,512,163	53.7%	\$5,395,656	51.5%
Class 3 (TPPs)	\$9,506,629	30.9%	\$2,631,671	25.1%
Class 3 (Consumers)	\$243,760	0.8%	\$84,494	0.8%
Total	\$30,763,654		\$10,479,670	

Notes:

Includes calculation or estimation of damages from 1991 to 2003.

See Table 4 for a list of Class states and statute of limitation time periods included in Scenario 2.

Table 2: Scenario 1: Total National BMS Nominal Damages by Class (50 States + DC)**Class 1**

Drug	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	Total
Blenoxane	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Cytoxan	\$0	\$0	\$2,026	\$25,552	\$46,596	\$87,806	\$141,189	\$155,755	\$158,627	\$141,933	\$97,547	\$94,761	\$111,414	\$1,063,206
Etopophos	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Paraplatin	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Rubex	\$0	\$0	\$0	\$3,324	\$16,077	\$15,125	\$5,611	\$3,029	\$2,103	\$4,084	\$0	\$147	\$0	\$49,500
Taxol	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$614,016	\$614,016	\$1,228,032
Vepesid	\$0	\$0	\$9,328	\$61,263	\$246,939	\$492,778	\$408,205	\$262,308	\$243,381	\$0	\$127,385	\$163,389	\$145,387	\$2,160,364
Total	\$0	\$0	\$11,354	\$90,139	\$309,613	\$595,708	\$555,006	\$421,093	\$404,110	\$146,017	\$224,932	\$872,313	\$870,817	\$4,501,102

Class 2

Drug	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	Total
Blenoxane	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Cytoxan	\$0	\$0	\$7,433	\$93,738	\$170,936	\$322,113	\$517,948	\$571,384	\$581,917	\$520,677	\$357,847	\$347,630	\$408,718	\$3,900,342
Etopophos	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Paraplatin	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Rubex	\$0	\$0	\$0	\$12,195	\$58,980	\$55,485	\$20,584	\$11,112	\$7,716	\$14,982	\$0	\$538	\$0	\$181,591
Taxol	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$2,252,499	\$2,252,499	\$4,504,998
Vepesid	\$0	\$0	\$34,219	\$224,741	\$905,890	\$1,807,740	\$1,497,490	\$962,271	\$892,834	\$0	\$467,309	\$599,389	\$533,349	\$7,925,232
Total	\$0	\$0	\$41,652	\$330,674	\$1,135,806	\$2,185,338	\$2,036,023	\$1,544,767	\$1,482,467	\$535,660	\$825,156	\$3,200,055	\$3,194,566	\$16,512,163

Table 2: Scenario 1: Total National BMS Nominal Damages by Class (50 States + DC)**Class 3 (TPPs)**

Drug	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	Total
Blenoxane	\$0	\$0	\$0	\$0	\$0	\$91,156	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$91,156
Cytosan	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Etopophos	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Paraplatin	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Rubex	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Taxol	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$6,766,839	\$0	\$0	\$6,766,839
Vepesid	\$0	\$0	\$298,635	\$2,350,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$2,648,635
Total	\$0	\$0	\$298,635	\$2,350,000	\$0	\$91,156	\$0	\$0	\$0	\$0	\$6,766,839	\$0	\$0	\$9,506,629

Class 3 (Consumers)

Drug	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	Total
Blenoxane	\$0	\$0	\$0	\$0	\$0	\$2,337	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$2,337
Cytosan	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Etopophos	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Paraplatin	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Rubex	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Taxol	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$173,509	\$0	\$0	\$173,509
Vepesid	\$0	\$0	\$7,657	\$60,256	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$67,914
Total	\$0	\$0	\$7,657	\$60,256	\$0	\$2,337	\$0	\$0	\$0	\$0	\$173,509	\$0	\$0	\$243,760

Notes:

Damages are zero from 1991-1992 either due to extrapolation methods resulting in zero damages or BMS documentation that suggests no damages in those years.

Class 3 damages are zero in 2002-2003 because Taxol was multisource as of 2001, which therefore was the last year of damages.

Table 3: Scenario 2: Total BMS Nominal Damages by Class for Certified Class States**Class 1 (40 Class States)**

Drug	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	Total
Blenoxane	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Cytosan	\$0	\$0	\$7	\$94	\$172	\$11,120	\$26,344	\$71,053	\$108,916	\$111,964	\$79,432	\$77,164	\$90,724	\$576,989
Etopophos	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Paraplatin	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Rubex	\$0	\$0	\$0	\$12	\$59	\$1,915	\$1,047	\$1,382	\$1,444	\$3,222	\$0	\$119	\$0	\$9,201
Taxol	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$499,991	\$499,991	\$999,982
Vepesid	\$0	\$0	\$34	\$226	\$909	\$62,407	\$76,166	\$119,660	\$167,110	\$0	\$103,729	\$133,047	\$118,388	\$781,677
Total	\$0	\$0	\$42	\$332	\$1,140	\$75,442	\$103,558	\$192,094	\$277,470	\$115,185	\$183,161	\$710,322	\$709,103	\$2,367,849

Class 2 (24 Class States)

Drug	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	Total
Blenoxane	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Cytosan	\$0	\$0	\$0	\$0	\$0	\$13,461	\$27,351	\$167,310	\$257,212	\$266,782	\$189,078	\$183,679	\$215,957	\$1,320,831
Etopophos	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Paraplatin	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Rubex	\$0	\$0	\$0	\$0	\$0	\$2,319	\$1,087	\$3,254	\$3,410	\$7,677	\$0	\$284	\$0	\$18,030
Taxol	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$1,190,169	\$1,190,169	\$2,380,337
Vepesid	\$0	\$0	\$0	\$0	\$0	\$75,545	\$79,077	\$281,767	\$394,640	\$0	\$246,915	\$316,703	\$281,809	\$1,676,457
Total	\$0	\$0	\$0	\$0	\$0	\$91,325	\$107,516	\$452,331	\$655,262	\$274,459	\$435,993	\$1,690,835	\$1,687,935	\$5,395,656

Table 3: Scenario 2: Total BMS Nominal Damages by Class for Certified Class States**Class 3 TPPs (19 Class States)**

Drug	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	Total
Blenoxane	\$0	\$0	\$0	\$0	\$0	\$3,809	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$3,809
Cytosan	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Etopophos	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Paraplatin	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Rubex	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Taxol	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$2,627,861	\$0	\$0	\$2,627,861
Vepesid	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$0	\$0	\$0	\$0	\$0	\$3,809	\$0	\$0	\$0	\$0	\$2,627,861	\$0	\$0	\$2,631,671

Class 3 Consumers (27 Class States)

Drug	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	Total
Blenoxane	\$0	\$0	\$0	\$0	\$0	\$191	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$191
Cytosan	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Etopophos	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Paraplatin	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Rubex	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Taxol	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$84,053	\$0	\$0	\$84,053
Vepesid	\$0	\$0	\$28	\$222	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$250
Total	\$0	\$0	\$28	\$222	\$0	\$191	\$0	\$0	\$0	\$0	\$84,053	\$0	\$0	\$84,494

Notes:

Damages are zero from 1991-1992 either due to extrapolation methods resulting in zero damages or BMS documentation that suggests no damages in those years.

Class 3 damages are zero in 2002-2003 because Taxol was multisource as of 2001, which therefore was the last year of damages.

Table 4: List of Class States and Statutes of Limitations

States	Statute of Limitation (Years)*	Class 1	Class 2	Class 3 (TPPs)	Class 3 (Consumers)
Alabama					
Alaska					
Arizona	1	X	X		
Arkansas	5	X	X	X	X
California	4	X	X		
Colorado	3	X	X	X	X
Connecticut	3	X	X	X	X
Delaware	3	X	X	X	X
District of Columbia	3	X			X
Florida	4	X	X	X	X
Georgia					
Hawaii	4	X			X
Idaho	4	X	X	X	X
Illinois	3	X	X	X	X
Indiana	2	X			
Iowa					
Kansas	3	X			X
Kentucky					
Louisiana					
Maine	6	X	X	X	X
Maryland	3	X			
Massachusetts	4	X			
Michigan	6	X			X
Minnesota	4	X	X	X	X
Mississippi					
Missouri	5	X			X
Montana					
Nebraska	4	X	X	X	X
Nevada	4	X	X	X	X
New Hampshire	3	X	X	X	X
New Jersey	6	X	X	X	X
New Mexico	4	X	X	X	X
New York	3	X	X	X	X
North Carolina	4	X	X		
North Dakota	6	X	X	X	X
Ohio					
Oklahoma	3	X			X
Oregon	1	X			
Pennsylvania	6	X			
Rhode Island	10	X			X
South Carolina	3	X			
South Dakota	2	X	X		
Tennessee	5	X			
Texas	2	X	X	X	X
Utah					
Vermont	6	X	X	X	X
Virginia					
Washington	4	X	X	X	X
West Virginia	2	X			X
Wisconsin	3	X			
Wyoming	1	X	X		
Total # of States		40	24	19	27

* I.e., the number of years prior to 2002 that are included in damages.
2002 and 2003 are included in damages for all Class states.

Table 5: BMS Overcharge Ratio Calculation for Members of Class 1 Without Supplemental Insurance and With Supplemental Insurance Who Pay Coinsurance - National Using a 30% Threshold*

(All figures in dollars)

A. Class 1 Payments**

Drug	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	Total, 1999-2002	Total, 1991-2002
Blenoxane	n/a	n/a	0	0	0	0	0	0	0	0	0	0	n/a	0	0
Cytoxan	n/a	n/a	10,934	86,791	147,871	179,325	217,282	220,424	211,294	209,903	224,220	281,656	n/a	927,073	1,789,700
Etopophos	n/a	n/a	0	0	0	0	0	0	0	0	0	0	n/a	0	0
Paraplatin	n/a	n/a	0	0	0	0	0	0	0	0	0	0	n/a	0	0
Rubex	n/a	n/a	0	6,203	26,388	26,643	11,406	4,855	5,841	5,623	0	1,258	n/a	12,721	88,215
Taxol	n/a	n/a	0	0	0	0	0	0	0	0	0	1,803,600	n/a	1,803,600	1,803,600
Vepesid	n/a	n/a	160,625	818,031	885,960	733,780	528,450	294,588	289,118	0	245,705	350,476	n/a	885,299	4,306,734
Total			171,559	911,024	1,060,219	939,747	757,139	519,867	506,253	215,526	469,925	2,436,990		3,628,693	7,988,249

B. Damages (Not Including Prejudgment Interest)***

Drug	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	Total, 1999-2002	Total, 1991-2002
Blenoxane	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Cytoxan	0	0	2,026	25,552	46,596	87,806	141,189	155,755	158,627	141,933	97,547	94,761	111,414	492,868	951,793
Etopophos	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Paraplatin	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Rubex	0	0	0	3,324	16,077	15,125	5,611	3,029	2,103	4,084	0	147	0	6,334	49,500
Taxol	0	0	0	0	0	0	0	0	0	0	0	614,016	614,016	614,016	614,016
Vepesid	0	0	9,328	61,263	246,939	492,778	408,205	262,308	243,381	0	127,385	163,389	145,387	534,155	2,014,977
Total	0	0	11,354	90,139	309,613	595,708	555,006	421,093	404,110	146,017	224,932	872,313	870,817	1,647,372	3,630,286

C. Overcharges Ratio (= Damages / Payments)

Drug	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	Total, 1999-2002	Total, 1991-2002
Blenoxane	n/a	n/a											n/a		
Cytoxan	n/a	n/a	19%	29%	32%	49%	65%	71%	75%	68%	44%	34%	n/a	53%	53%
Etopophos	n/a	n/a											n/a		
Paraplatin	n/a	n/a											n/a		
Rubex	n/a	n/a		54%	61%	57%	49%	62%	36%	73%		12%	n/a	50%	56%
Taxol	n/a	n/a										34%	n/a	34%	34%
Vepesid	n/a	n/a	6%	7%	28%	67%	77%	89%	84%		52%	47%	n/a	60%	47%
Total			7%	10%	29%	63%	73%	81%	80%	68%	48%	36%		45%	45%

Notes:

* These calculations include all 50 states and DC.

** BMS data are only available from 1993 through 2002. Equals (AWP - x%) * Units * Medicare Percentage * Copay/Coinsurance Percentages for beneficiaries with and without supplemental insurance.

*** To account for missing data in 1991-1992 and 2003, damages have been extrapolated using the trends specified below:

Cytosaxan: 1991-1992: Trend 1993-1997 (this goes to zero).

2003: Average 2000-2002.

Rubex: 1991-1993: Rubex was not sold by BMS in 1992 or 1993, so damages are set equal to zero from 1991 to 1993.

2003: Rubex was discontinued by BMS in 2002, so damages are set equal to zero from 2003 to 2004.

Taxol: 2003: Damages are set equal to 2002 damages.

Vepesid: 1991-1992: Set to 0 (Given the understanding that there was no spread competition in 1991-1992, damages were assumed to be zero.)

2003: Average 2001-2002

CERTIFICATE OF SERVICE BY LEXISNEXIS FILE & SERVE

Docket No. MDL 1456

I, Steve W. Berman, hereby certify that I am one of plaintiffs' attorneys and that, on April 8, 2011, I caused copies of the **DECLARATION OF RAYMOND S. HARTMAN IN SUPPORT OF BRISTOL-MYERS SQUIBB SETTLEMENT ALLOCATION** to be served on all counsel of record by causing same to be posted electronically via Lexis-Nexis File & Serve.

/s/ Steve W. Berman
Steve W. Berman